IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 14TH FEBRUARY 2007 / 25TH MAGHA 1928

WP(C).No. 18860 of 2006(T)

PETITIONER:

BIPIN HEZAKIEL.V., AGED 18,
S/O.V.S.HEZAKIEL, TC.NO.7/2165, CHIRAKULAM ROAD,
STATUE, THIRUVANANTHAPURAM.

BY ADV. SRI.MATHAI M PAIKADAY(SR.)
SMT.LAILA SIMON
SRI.AJAYA KUMAR. G

RESPONDENTS:
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1. STATE OF KERALA, REPRESENTED BY
SECRETARY, HIGHER EDUCATION DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM.

2. COMMISSIONER FOR ENTRANCE EXAMINATION,
OFFICE OF THE COMMISSIONER FOR ENTRANCE
EXAMINATION, VTH FLOOR, HOUSING BOARD BUILDINGS,
SANTHI NAGAR, THIRUVANANTHAPURAM.

3. VIGILANCE OFFICER,
DIRECTORATE OF KIRTADS, KOZHIKODE.

BY GOVERNMENT PLEADER SRI.C.T.RAVIKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 14/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

P1: TRUE COPY OF THE CASTE CERTIFICATE DT.1.10.2002 ISSUED BY TAHSILDAR OF MEENACHIL.

P2: TRUE COPY OF THE CASTE CERTIFICATE DT.11.10.2004 ISSUED BY TAHSILDAR OF MEENACHIL.

P3: TRUE COPY OF THE TRANSFER CERTIFICATE ISSUED FROM THE CHRIST NAGAR ENGLISH HIGHER SECONDARY SCHOOL.

P4: TRUE COPY OF SSLC CERTIFICATE SHOWING THE PETITIONER'S CASTE.

P5: TRUE COPY OF THE CERTIFICATE ISUED BY CSI CHRIST CATHEDRAL MELUKKAVU P.O., KOTTAYAM.

P6: TRUE COPY OF 1ST PAGE OF THE SERVICE BOOK OF THE PETITIONER'S FATHER.

P7: TRUE COPY OF THE INTERCASTE MARRIAGE CERTIFICATE FOR SON OF INTERCASTE MARRIED COUPLES ISSUED BY TAHSILDAR SHOWING THE CASTE OF THE PETITIOENR'S FATHER.

P8: TRUE COPY OF CERTIFICATE DT.13.5.2005 ISSUED BY DEPARTMENT OF HIGHER SECONDARY EDUCAITON.

P9: TRUE COPY OF ORDER DT.19.4.2005 ISSUED BY R3.

P10: TRUE COPY OF SELECTION MEMO ISSUED BY R2 DT.28.7.2005.

P11: TRUE COPY OF THE APPLICATION SUBMITTED BY PETITIONER ALONG WITH THE CERTIFICATE DT.8.2.2006 ISSUED BY TAHSILDAR, TRIVANDRUM.

P12: TRUE COPY OF THE ADMIT CARD WITH REG. NO.16814 ISSUED TO THE PETITIONER.

P13: TRUE COPY OF THE NOTICE DT.24.6.2006 ISSUED BY R3 TO THE PETITIONER.

P14: TRUE COPY OF THE REPORT DT.20.6.2006 OF R3.

P15: TUE COPY OF RESULTS OF THE PETITIONER IN THE ENTRANCE EXAMINATION, KERALA, 2006.

TRUE COPY

P.S. TO JUDGE

C.N.RAMACHANDRAN NAIR, J.

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W.P.(C) No.18860 of 2006

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Dated this the 14th day of February, 2007.

JUDGMENT

Heard counsel for the petitioner and Special Government Pleader. Petitioner claimed benefit as a Scheduled Tribe for admission to Engineering course. The Entrance Examination Commission declined it based on report of KIRTADS vide Ext.P14. While the case of the petitioner is that his father and grandfather were Mala Arayan Christians and since Supreme Court has held that community has to be traced with reference to the community of the father, petitioner is entitled to the benefit, the Special Government Pleader submitted that the observation of the Supreme Court is such that those who have left the abode of tribals and have lived in developed areas are not entitled to the benefit. Besides this, he has pointed out that petitioner's grandfather who was a Christian, migrated to Kerala by marrying a Nadar lady in Nagarcovil, Tamil Nadu. The petitioner's father is also a Christian and the claim that he is a Mala Araya is not tenable, is the contention of the Special Government Pleader. I do not think there is any need to go into the correctness of Ext.P14 by this court because detailed facts have to be gone into before deciding the issue which the petitioner can

raise before the Scrutiny Committee which is authorised to go into the correctness of the report of the KIRTADS. In the circumstances, W.P. is closed directing the petitioner to approach the Scrutiny Committee with an application and if any such application is filed, the Scrutiny Committee will verify the records, go through the decision of the Supreme Court and take a decision. Since admission is granted to the petitioner in Civil Engineering under interim orders of this court, petitioner can continue his studies irrespective of whether petitioner is entitled to the community benefit or not as petitioner has already joined and is continuing studies. In the circumstances, petitioner's admission to Engineering course will hold valid and if petitioner is found to be not eligible for admission under the SC/ST quota, then admission should be treated as given in the merit quota and consequences such as payment of normal fees will follow. The petitioner shall not claim the benefit of SC/ST for any purpose unless Scrutiny Committee allows petitioner's claim.

C.N.RAMACHANDRAN NAIR
Judge

pms